



Date: MAY 21 2004

Memorandum

To: Thomas Bennett, President, International Association of Fish and Wildlife Agencies
Steven Williams, Director, Fish and Wildlife Service

From: Terry Crawford, Co-chair, Joint State/Federal Task Force on Federal Assistance Policy
Clint Riley, Co-chair, Joint State/Federal Task Force on Federal Assistance Policy

Subject: Policy Recommendation of the Joint State/Federal Task Force on Federal Assistance Policy - Determining Approval and Effective Dates for Federal Assistance Grants

The Joint State/Federal Task Force on Federal Assistance Policy (JTF) submits the attached recommendation concerning "Determining Approval and Effective Dates for Federal Assistance Grants" for your review and consideration. We suggest that the guidance be implemented in the form of a Director's Order, with future inclusion within the U.S. Fish and Wildlife Service Manual.

The substance of the policy recommendation is detailed within the body of the recommendation itself. It was developed by the JTF over the course of four meetings (in Atlanta, Georgia, on March 11 and 12, 2003, in Shepherdstown, West Virginia, on May 13-15, 2003, in Missoula, Montana, on August 5-7, 2003, and in Madison, Wisconsin, on October 22-24, 2003) as well as a JTF workgroup who submitted information to the JTF at these meetings. As designated by each of you, the members of the JTF represent both State fish and wildlife agencies and the Service, and are listed at the end of the memorandum.

Following the JTF meeting in January 2004, a draft recommendation was provided to all grantees of the Wildlife and Sport Fish Restoration Programs, and to all Service Regional Offices and relevant Service Programs, requesting comment. Comments were received from twenty-eight grantee agencies, and from seven Service Regional Offices. Roughly summarized, the most

substantial comments received are listed below in italics followed by the action taken by the JTF with regard to the comments.

- *There is a discrepancy between the title and the body of the Order.* The JTF agreed and changed the title and Sec. 1 accordingly.
- *Order does not include other funding sources which means Federal Assistance will be using two sets of rules governing effective dates.* The JTF reaffirmed that its mandate is to make policy recommendations specific to the Wildlife and Sport Fish Restoration Programs, but noted the need to communicate to various offices that programs such as Boating Infrastructure and Clean Vessel Pumpout are funded through the Sport Fish Restoration Program and as such are covered by this draft guidance.
- *Order places the State in a position of not really knowing when the effective date will be as the Service determines the date with no time frames as to when the Service must make the determination. Order does not define the responsibility of Service regional staff to approve grants in a reasonable amount of time.* The JTF changed the Order in response to this concern so that the State would have more certainty regarding what the effective date will be once a grant is approved (see especially revised Section 6). The JTF also discussed whether to recommend a required timeframe for the Service to review and approve a grant. However, the JTF felt that the other changes made to the Order sufficiently addressed this concern.
- *Section 4 is worded broadly and likely will result in different Regions using different methods to determine effective date.* Again, the JTF agreed and revised the Order to provide more specific guidance.
- *Order could potentially punish states through no fault of their own by disallowing reimbursement of costs that could have, and should have, been approved. Predicting pre-agreement costs would be an arduous and nearly impossible task, especially if the States are not able to predict how long it will take Service staff to approve a particular grant.* The JTF agreed that as written, the Order necessitated the use of pre-agreement costs in a manner that could result in confusion and extra work for both the State and Service staff and changed the Order accordingly. Previous Sections discussing pre-agreement costs have been removed as being no longer necessary to the revised Order.
- *We feel that this section must explicitly address compliance. We believe that the effective date should be no earlier than the date of compliance determination by the Service.* The JTF recognizes the amount of time required to make compliance determinations on certain grants. Therefore, the JTF modified the language of the Order addressing the effective date, while ensuring that the compliance determinations are completed before the grant approval date (see especially revised Sections 4, 5, and 6).
- *Order should provide guidance on how a State covers the costs of activities from the start date of the grant regardless of the effective date.* The Order clarifies that a State can

begin work whenever it chooses; however, the Service cannot obligate any funds for a grant until the grant is approved by the Service. The JTF reviewed this language to make this point as clear as possible. To the extent these comments addressed the need for more guidance concerning pre-agreement costs, the JTF felt that other changes to the Order resolved these concerns.

The actual comments received could be provided to you at your request.

The recommendation presented to you at this time reflects the JTF's consideration of all of these comments, and our consensus opinion after this review. If you have any questions about this recommendation, or the process used by the JTF to arrive at this recommendation, please contact either of us, or any member of the JTF.

Members of the Joint State/Federal Task Force on Federal Assistance Policy (in alphabetical order):

Gerald Barnhart, Director, New York Division of Fish, Wildlife and Marine Resources

Lisa Evans, Federal Funds Manager, New Mexico Department of Game and Fish

John Frampton, Director, South Carolina Department of Natural Resources

Don Friberg, Chief, Division of Federal Assistance, FWS Region 1

Dale Hall, Regional Director, FWS Region 2

Kelly Hepler, Director, Sport Fish Division, Alaska Department of Fish and Game

Bobbi Keeler, JTF member during discussions of this issue

Mitch King, Deputy Regional Director, FWS Region 4

Kris LaMontagne, Chief, Division of Federal Assistance, FWS Washington Office

Tom Niebauer, Federal Policy Advisor, Wisconsin Department of Natural Resources

Gary Reinitz, Branch Chief, Grant Operations and Policy, FWS Washington Office

Glen Salmon, Director, Division of Fish and Wildlife, Indiana DNR

Paul Schmidt, Assistant Director, Migratory Birds and State Programs, FWS

Attachment